

## REMARKS

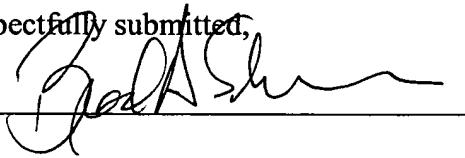
A Restriction Requirement under 35 U.S.C. §121 was mailed to the Applicant on December 20, 2006 asserting that claims 1-62 are directed to multiple inventions and multiple invention species.

In response to the Restriction Requirement, the Applicant hereby elects the Invention Group I including apparatus claims 1-39. Additionally, the Applicant hereby elects Species B (under Implant/Device/Interlock); Species A (under Pair of Side Surfaces); and Species A (under Interlock or Spinal Implant). The Applicant further submits that claims 1-3, 6-15 and 17-39 are readable on the elected species. The Applicant also submits that each of the independent claims 1, 25 and 35 are generic to the elected species of the invention.

The Applicant submits that the indicated Species A and B under Implant/Device/Interlock are both directed to the same species of the invention. Specifically, Figures 1 and 2 illustrate the device in a first operational position (with walls 17L and 17P extending along the height of the intervertebral space), and Figures 3 and 4 illustrate the device in a second operational position (with walls 17B and 17T extending along the height of the intervertebral space). However, Figures 1-4 clearly illustrate the same device, and therefore the same species of the invention. Nevertheless, in order to satisfy the requirement for an election, the Applicant has elected Species B (Figures 3 and 4). The Applicant makes this election with traverse and respectfully requests reconsideration of the species restriction under Implant/Device/Interlock.

Further consideration of the present application in view of the foregoing elections is respectfully requested.

Respectfully submitted,

By: 

Brad A. Schepers  
Reg. No. 45,431  
Krieg DeVault LLP  
One Indiana Square, Suite 2800  
Indianapolis, Indiana 46204-2079  
(317) 238-6334 (voice)  
(317) 238-6371 (facsimile)